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APPLICATION NO.	FIL	ING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,256 09/20/2003		Shree K. Kurup	KURUP-3	6918	
7590 05/23/2006				EXAMINER	
ROBERT NATHANS				LEGESSE, NINI F	
36 STAG DRIV BILLERICA, N	_	321		ART UNIT	PAPER NUMBER
•				3711	

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, PROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of intermy by earbitish under the provision of 30° CR1 13061, into event, however, may a nepty be timely filled in the provision of 30° CR1 13061, into event, however, may a nepty be timely filled in 14° NO period for regly is specified above, the maximum statutory panel will apply and an analysis and an application is an application (s) filled on 96 May 2006.  2a) This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 21-40 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) 21-40 is/are allowed.  6) Claim(s) 21-40 is/are allowed.  7) Claim(s) 21-40 is/are allowed.  8) Claim(s) 21-40 is/are allowed.  8) Claim(s) 21-40 is/are allowed.  10) The drawing(s) filed on is/are allowed.  8) Claim(s) 21-40 is/are allowed.  10) The drawing(s) filed on is/are: a) accepted or b) by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  Application Papers  10) The drawing(s) filed on is/are: a) accepted or b) by the provision of the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Exam		Application No.	Applicant(s)	
Nini F. Legesse   3711		10/665,256	KURUP, SHREE K.	
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time ray be a validition under the provisions of 37 CFR 1.19(1), in an event, hower, may rearly be inventive fine of the control of the provisions of 37 CFR 1.19(1), in an event, hower, may rearly be inventive fine of the communication. Plants to reply the period period for reply is periodic above, the meantum situations year old all pays and will eaply SIX (8) MONTHS from the mailing date of this communication. Plants to reply within the set or extended period for reply its petaked, case the application or ABMORNED (31 S.C. § 1.13).  Any reply recovered by the Ottoo lister than free mentile after the mailing date of this communication, even if smelly filed, may reduce any secret general transplants.  Status  1) □ Responsive to communication(s) filed on 0.6 May 2006.  2a) □ This action is FINAL.  2b) □ This action is ono-final.  3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) □ Claim(s) 21-40 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  5) □ Claim(s) 21-40 is/are allowed.  6) □ Claim(s) is/are allowed.  7) □ Claim(s) is/are allowed.  8) □ Claim(s) is/are allowed.  9) □ The request that any objected to by the Examiner.  10) □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner.  Application Papers  9) □ The provision of California (and the provision of the priority documents have been received.  11) □ The drawing(s) filed on is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) □ Acknowledgment is made of a claim for fo	Office Action Summary	Examiner	Art Unit	
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## **DETAILED ACTION**

Applicant's response to the Non-Final office action of 03/13/06 is acknowledged on 05/06/06.

### Specification

The amendment filed 05/06/06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material that is not supported by the original disclosure is as follows: claim 21 discloses the term "receptor sheet" and this disclosure is not reviled in the specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

### Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The expression "receptor sheet" in line 11 of claim 21 is new matter that was not disclosed in the specification. The specification does not disclose a receptor sheet.

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## Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 21-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wargon (US Patent No. 5,949,514).

Wargon discloses an eye patch (10), outer adhesive surface (18), and an inner adhesive surface portion (26) that is flexible sheet means. The Wargon device could comprise corrective lens (see column 3, lines 27+). Wargon fails to disclose a second adhesive layer in the second section of the patch. However, as shown on Figs. 2 and 3 of the reference, Wargon discloses plurality of pigs as connecting means. It would have been obvious to one of ordinary skill in the art to replace the pigs with adhesive layer since that would reduce the manufacturing cost of the device. Regarding the device in having instruction kit to assist the user, providing instruction along a device is old in any art and it would have been obvious to one of ordinary skill in the art to provide one with the Wagon device in order to inform the user how to use the device. Regarding the intended use set forth in the preambles, the device is capable of being used as an attention-attracting device if so desired. Applicant is not claiming a process. See MPEP 2112. Regarding the device being brightly colored, different people have different color

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preferences and it would have been obvious to one of ordinary skill in the art to provide any color including bright color in order to accommodate the likes of different people.

Claims 21-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig (US Patent No. 4,122,847).

Craig discloses an eye patch (10), outer adhesive surface (12), and an inner adhesive surface portion (31) that is flexible sheet means. Craig fails to explicitly state if the device has instruction kit and if it has bright color. Regarding the device in having instruction kit to assist the user, providing instruction along a device is old in any art and it would have been obvious to one of ordinary skill in the art to provide one with the Craig device in order to inform the user how to use the device. Regarding the intended use set forth in the preambles, the device is capable of being used as an attention getting device if so desired. Applicant is not claiming a process. See MPEP 2112. Regarding the device being brightly colored, different people have different color preferences and it would have been obvious to one of ordinary skill in the art to provide any color including bright color in order to accommodate the likes of different people.

Claims 21-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bleau (US Patent No. 6,984,037).

Bleau discloses an eye patch (10), outer adhesive surface (14), and an inner adhesive surface portion (see column 3, lines 30+) that is flexible sheet means. Bleau fails to explicitly state if the device has instruction kit and if it has bright color. Regarding the

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device in having instruction kit to assist the user, providing instruction along a device is old in any art and it would have been obvious to one of ordinary skill in the art to provide one with the Bleau device in order to inform the user how to use the device. Regarding the intended use set forth in the preambles, the device is capable of being used as an attention getting device if so desired. Applicant is not claiming a process. See MPEP 2112. Regarding the device being brightly colored, different people have different color preferences and it would have been obvious to one of ordinary skill in the art to provide any color including bright color in order to accommodate the likes of different people.

## Response to Arguments

Applicant's arguments with respect to claims 21-40 have been considered but are moot in view of the new ground(s) of rejection.

#### Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nini F. Legesse
Primary Examiner
Art Unit 3711